IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 4323 of 2007(M)

PETITIONER:

C.K. SASEENDRAN, FORMERLY WORKING AS
ASSISTANT EXCISE COMMISSIONER,
STATE EXCISE DEPARTMENT, AISWARYA,
MULAMKADAKAM, THIRUMULLAVARAM P.O.,
KOLLAM-691 012.

BY ADV. SRI.P.B.SURESH KUMAR
SRI.K.P.SUJESHKUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

3. THE EXICE COMMISSIONER, OFFICE OF THE
COMMISSIONER OF EXCISE, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.P. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1: TRUE COPY OF G.O. (RT) NO.133/2004/TD ISSUED BY THE GOVERNMENT DATED 27.2.2004

EXHIBIT-P2: TRUE COPY OF THE ADVOCATE'S NOTICE ISSUED TO THE RESPONDENTS, DATED 28/7/2006

EXHIBIT-P3: TRUE COPY OF THE REPLY NOTICE ISSUED BY THE 3RD RESPONDENT DATED 4/12/2006

EXHIBIT-P4: TRUE COPY OF THE KERALA ABKARI SHOPS (DISPOSAL IN AUCTION) AMENDMENT RULES, 2000 AS INTRODUCED AS PER SRO NO.486/2000 DATED 2/6/2000

EXHIBIT-P5: TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HONOURABLE COURT IN CMP NO.25363/1994 IN ORIGINAL PETITION NO.14463/1994 DATED 19/10/1994

EXHIBIT-P6: TRUE COPY OF THE ORDER IN CMP NO.1691/1999 IN W.A. NO.690/1999 BEFORE THIS HONOURABLE COURT DATED 17/3/1999

EXHIBIT-P7: TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE GOVERNMENT IN ORIGINAL PETITION NO.10372/2003 DATED 9/9/2004

EXHIBIT-P8: TRUE COPY OF THE COMMUNICATION SENT BY THE ASSISTANT EXCISE COMMISSIONER, THIRUVANANTHAPURAM TO THE ADVOCATE GENERAL IN CONNECTION WITH O.P. NO.10372/2003, DATED 28.1.2005

EXHIBIT-P9: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN ORIGINAL PETITION NO.10372/2003 DATED 18/8/2005

EXHIBIT-P10: TRUE COPY OF THE INTERIM ORDER PASSED BY THIS HONOURABLE COURT IN WPC NO.10609/2006 DATED 6/4/2006

RESPONDENTS EXHIBITS:

EXHIBIT - R3 (a): TRUE COPY OF THE NOTICE DATED 27.6.2000

EXHIBIT- R3 (b): TRUE COPY OF THE LETTER NO.R.5-7615/98 DT.25.8.2000 OF THE DISTRICT COLLECT, THIRUVANANTHAPURAM

EXHIBIT- R3 (c): TRUE COPY OF THE LETTER DATED 19.7.2001

/TRUE COPY/

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.4323 of 2007-M

Dated this the 19th day of July, 2007.

J U D G M E N T

The petitioner retired from service as Assistant Excise Commissioner, on 30-6-2001. It is submitted that the DCRG has not been released to him, so far. Hence this writ petition seeking appropriate reliefs.

2. The respondents would submit that the State has suffered loss, as a result of the demand raised by the petitioner, on an abkari contract, under the Amnesty Scheme introduced in 2000. The actual loss suffered is yet to be finalised. The petitioner has agreed as per Ext. R3(c) declaration that any amount due to the State can be recovered from his DCRG. So, only after assessing the loss caused to the State by the commission or omission of the petitioner, the DCRG will be released to him, it is submitted.

2. Since no disciplinary proceedings are pending against the petitioner, there is no justification for retaining the DCRG and other terminal benefits due to the petitioner beyond the period of one year. He is entitled to get the above benefits, in view of Ruling No.5 under Rule 116 Part III KSR.

3. The respondents are directed to release the terminal benefits due to the petitioner, within two months from the date of production of a copy of this judgment. But, this direction will not affect the right of the respondents, to recover any amount found due from him, in future, in accordance with law.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS